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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,082	03/06/2006	Roger Francis Golder	041129-0115	2267
22428	7590	05/07/2007		
FOLEY AND LARDNER LLP			EXAMINER	
SUITE 500			HE, AMY	
3000 K STREET NW				
WASHINGTON, DC 20007			ART UNIT	PAPER NUMBER
			2858	
			MAIL DATE	DELIVERY MODE
			05/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/595,082

Applicant(s)

GOLDER ET AL.

Examiner

Amy He

Art Unit

2858

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 12.
Claim(s) objected to: 7.
Claim(s) rejected: 1, 2, 4-6 and 8-11.
Claim(s) withdrawn from consideration: 13-16.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

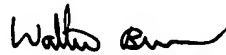
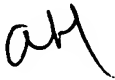
Continuation of 11. does NOT place the application in condition for allowance because: 1. Restriction of claims 13-16 as stated in the Final office action is proper because the inventions as listed in the final office action are independent or distinct for the reasons given in the office action and there would be a serious search and examination burden if restriction were not required because of the following reasons apply:

a) the invention require a different field of search. For example, employing different search queries, or searching different class/subclass.
b) the prior art applicable to one invention would not likely be applicable to another invention. For example, a prior art that teaches an apparatus comprising an electrical charge sensor and a different means of sensor can be used for claim 1, while it might not be used for claim 13 if it does not specifically teach the structure of a pathway having at least three electrodes, wherein a charge signal is derived from the difference between a charge on a central electrode and a charge on two outer electrodes as claimed in claim 13.

2. The 103 rejection as stated in the final office action still stand because Singer discloses a method and apparatus for measuring any of the size, charge, velocity and concentration of the particles. The sensor unit of Singer can be used as a charge sensor for determining an electrical charge, and the same sensor unit could be used as a means for determining a second characteristic/size of the particle.

Furthermore, Singer recites "it is known to use optical measuring process to detect particle sizes, concentration and flow velocities" (col. 1, lines 13-15). Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Singer to put a conventional optical device next to the charge sensor, to characterize the size, concentration or flow velocities of the particles with sizes greater than 0.1 micron, (since the optical measurment might be difficult for particle sizes smaller than or equal to 0.1 micron, see col. 1, lines 19-22), or preferably, in the range of larger than or equal to 1 micron (since Singer's charge sensor is designed for this range, see col. 1, lines 36-40), for comparison purposes, in order to indicate the charge sensor's "marked improvement of the analysis time or the analysis volume in comparison with the known optical processes" (col. 5, lines 18-21).

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PRIMARY EXAMINER